



Reports of Cases

Judgment of the General Court (First Chamber) of 26 July 2023 – Topas v EUIPO – Tarczyński (VEGE STORY)

(Case T-434/22)¹

(EU trade mark – Opposition proceedings – Application for the EU word mark VEGE STORY – Earlier EU word mark végé’ – Relative ground for refusal – No likelihood of confusion – Article 8(1)(b) of Regulation (EU) 2017/1001)

1. *EU trade mark – Appeals procedure – Action before the EU judicature – Jurisdiction of the General Court – Re-evaluation of the facts in the light of evidence produced for the first time before it – Not included*

(Rules of Procedure of the General Court, Art. 188; European Parliament and Council Regulation 2017/1001, Arts 72(2) and 95)

(see paragraphs 15, 16)

2. *EU trade mark – Definition and acquisition of the EU trade mark – Relative grounds for refusal – Opposition by the proprietor of an identical or similar earlier mark registered in respect of identical or similar goods or services – Likelihood of confusion with the earlier mark – Enhanced distinctiveness of the earlier mark – Effect*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see paragraphs 21, 51-53)

3. *EU trade mark – Definition and acquisition of the EU trade mark – Relative grounds for refusal – Opposition by the proprietor of an identical or similar earlier mark registered in respect of identical or similar goods or services – Likelihood of confusion with the earlier mark – Earlier trade mark constituted by an EU trade mark – Refusal to register where there is a relative ground for refusal, even if limited to part of the Union*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see paragraph 22)

¹ OJ C 326, 29.8.2022.

4. *EU trade mark – Definition and acquisition of the EU trade mark – Relative grounds for refusal – Opposition by the proprietor of an identical or similar earlier mark registered in respect of identical or similar goods or services – Similarity of the marks concerned – Assessment of the distinctive character of an element of which a trade mark is composed*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see paragraphs 25, 30)

5. *EU trade mark – Definition and acquisition of the EU trade mark – Relative grounds for refusal – Opposition by the proprietor of an identical or similar earlier mark registered in respect of identical or similar goods or services – Likelihood of confusion with the earlier mark – Word marks VEGE STORY and végé'*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see paragraphs 38, 42, 46, 47, 49, 50, 60, 62)

Operative part

The Court:

1. Dismisses the action;
2. Orders Topas GmbH to bear its own costs and to pay those incurred by Tarczyński S.A.;
3. Orders the European Union Intellectual Property Office (EUIPO) to bear its own costs.